UNITED NATIONS

CEDAW

Convention on the Elimination of All Forms of Discrimination against Women

Distr.
GENERAL

CEDAW/C/SR.313
12 March 1998

ORIGINAL: ENGLISH

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Sixteenth session

SUMMARY RECORD OF THE 313th MEETING

Held at Headquarters, New York,
on Tuesday, 14 January 1997, at 3 p.m.

Chairperson: Ms. KHAN

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION (continued)

ORGANIZATION OF WORK

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97-80087 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION (continued)

Initial report of Morocco (continued) (CEDAW/C/MOR/1)

1. At the invitation of the Chairperson, Mr. Zahid (Morocco) took a place at the Committee table.

2. The CHAIRPERSON invited the Committee to resume its consideration of the initial report of Morocco (CEDAW/C/MOR/1).

Article 14 (continued)

3. Ms. BARE, referring to paragraph 268 of the initial report of Morocco (CEDAW/C/MOR/1), said that she wished to know whether rural women's access to credit was hampered by the need to provide collateral, and whether rural women needed their husbands' consent in order to obtain loans. It would also be useful to know whether women had title to land and could dispose of land freely.

4. With regard to the promotion of the handicrafts industry in rural areas, she requested information on whether a marketing infrastructure existed for such products.

5. Lastly, she would appreciate information on the percentage of rural areas which had access to safe drinking water and sanitation facilities.

Article 15

6. Ms. ESTRADA CASTILLO said that she shared the concerns expressed by other members of the Committee regarding the format in which the report had been submitted and the reservations made by the Government to the Convention. Nevertheless, article 15 of the Convention, concerning which the Government had not entered any reservations, referred to women's right to choose their residence and domicile and to their freedom of movement. Paragraph 89 of the report, however, indicated that a wife lost the right to the dowry and to support when she left the conjugal domicile without a valid motive and without her husband's consent. An explanation should be provided of what constituted a "valid motive" and what criteria were used to define it. Paragraph 89 also referred to "repudiation", which appeared to be an act defined by law; she wished to know whether and under what circumstances women could repudiate their husbands. It would also be helpful to know the legal definition of "unjust repudiation", referred to in paragraph 53. Lastly, further details should be provided concerning the period of statutory withdrawal and the place at which the withdrawal was to be spent, as referred to in paragraph 52, including whether both the period and the place were determined by the husband.

7. Paragraph 47 of the report indicated that among the requirements for obtaining a marriage certificate was the presentation of a copy of the permit

issued by the cadi, or judge, for the marriage of an insane or feebleminded person; it was unclear what the legal definition of "feebleminded" was, and whether it applied equally to men and women.

8. While the Government was to be congratulated on having enacted such a large volume of legislation in favour of women's rights, legislation by itself did not guarantee equality. Information should be provided concerning the programmes that had been implemented to make women aware of their rights and encourage them to take legal action on their own behalf. In that connection, she wished to know whether there were any women judges.

Article 16

9. Ms. AOUIJ said that the most glaring examples of discrimination against women in Moroccan law were in the areas covered by article 16. The fact that the husband's role as head of the family was enshrined in law had major consequences. In the first place, the age of consent was 15 for women and 18 for men; furthermore, while the power of matrimonial constraint had been abolished, the power of guardianship had been maintained, so that a woman whose father was alive could not consent to marriage on her own, and must be represented by a matrimonial guardian. Polygamy remained legal, although it was subject to a number of conditions supposedly designed to ensure greater equity for women; such conditions, however, were notoriously difficult to fulfil in practice. Repudiation was the prerogative of the husband alone; a wife could obtain a divorce only through a judge. The husband chose the conjugal domicile and obliged the wife to join him, even if it meant giving up her job; otherwise, she could be repudiated by her husband on the ground of abandonment. Lastly, the presumption of legitimate paternity meant that filiation through the mother did not exist. An unmarried mother could give her name to her child only if she obtained written authorization from a male relative.

10. The provisions of Moroccan law dealing with the custody of children took no account whatsoever of the primary interests of the child. Custody was assigned on the basis of age, contrary to the provisions of the Convention on the Rights of the Child, to which Morocco was a signatory; she wished to know whether the Government had entered any reservations to that Convention.

11. The Government's efforts should be focused on improving women's rights within the family and on repealing discriminatory legislation. A modern, enlightened reading of the sacred texts would enable Islamic countries to integrate women into development, which was a prerequisite for the material and cultural advancement of their societies. She recommended that the Government should publicize its report, together with the Committee's questions and the Government's replies, and that it should disseminate the text of the Convention as widely as possible.

12. Ms. ESTRADA CASTILLO said that article 16 clearly posed problems for the Government, as it was one of the articles to which a reservation had been entered. That reservation appeared to conflict with the Government's legal positions. One of the most disturbing provisions of the Criminal Code was the legal justification of murder or bodily injury granted to a husband who discovered his wife in the act of adultery, as indicated in paragraph 99 of the

report. Moreover, if the husband was outside the country, the Public Prosecutor could prosecute the wife ex officio. No provision was made for the reverse situation; in her view, that destroyed the basis of respect for human life, and encouraged violence against women. Moreover, according to universal legal doctrine, adultery was one of the most difficult offences to prove; she requested the Government to specify the means of establishing proof and the penalties provided by law, and to supply data, if available, on the incidence of violence committed against women on grounds of adultery.

13. Lastly, she wished to know whether consideration had been given, as part of the national strategy for the advancement of Moroccan women to the year 2000, to eliminating from the legislative texts such highly subjective expressions as "sexual ethics", "immoral conduct", "insane and feebleminded", and so on.

14. Ms. CORTI, referring to paragraph 49 of the report, concerning the reform of polygamy, requested clarification of the phrase "risk of injustice". With regard to the reform of repudiation, as indicated in paragraph 51 (b) of the report, article 52 bis of the Moudouana (Personal Status Code) provided that any husband who took the initiative of repudiating his wife must give her a consolation gift. The reporting State should indicate whether consideration was being given to amending that provision, which violated both article 16 and article 1 of the Convention, as the concept of repudiation followed by a gift was condescending to women.

15. Ms. GONZÁLEZ MARTÍNEZ, referring to paragraph 45 of the report, requested clarification of whether a woman had the right to enter into matrimony, why the father had to sign the marriage contract, and why, if the father was deceased, the prospective bride had to delegate a guardian to perform that task. It was also unclear why, despite the reform of repudiation, only men could exercise that option.

16. Paragraph 93 of the report stated that, according to the Moudouana, the husband was the head of the family, and the wife therefore owed obedience to the husband. She would appreciate an explanation of why the law did not state that both spouses had an obligation to treat each other with mutual respect, especially as it was her understanding that the Koran contained similar provisions relating to the obligations of both partners within a marriage.

17. Also unclear was the reference in paragraph 94 of the report to the husband's "power of correction" over his wife, which could be interpreted as an endorsement of violence against women. The Government should indicate whether wives also had the power to "correct" their husbands. Similarly, with regard to the statement in the same paragraph that the wife owed deference to her husband's parents, she wished to know whether the reverse was also true.

18. Lastly, she would appreciate further details on the extent to which mothers had the power to decide on the upbringing and education of their children.

19. The CHAIRPERSON said that the Government was to be commended on having submitted its report within one year of ratification of the Convention, which demonstrated its attachment to improving the status of women. The reservation made by the Government to article 2 of the Convention, however, appeared to

conflict with that aim. In many countries, including her own, in which Islam was the dominant religion, the Islamic shariah did not really regulate behaviour, but was often put forward as an excuse. She therefore urged the Government to examine those areas in which Moroccan women still faced discrimination, such as marriage and family law, and to decide whether the provisions of the Convention really conflicted with Islamic law.

20. Mr. ZAHID (Morocco), replying to the questions raised, said that the format of the report reflected earlier guidelines issued by the Committee; the subsequent revisions of those guidelines would be taken into account in the next report. As to the question of reservations to the Convention, he agreed with the Chairperson that a flexible interpretation of the shariah was possible, and that his Government should re-examine its position. Lastly, his country had one woman magistrate; further details would be provided in subsequent reports.

21. Mr. Zahid (Morocco) withdrew.

The meeting was suspended at 3.50 p.m. and resumed at 4 p.m.

ORGANIZATION OF WORK

22. The CHAIRPERSON said that, at its meeting on 13 January, the Officers of the Committee had decided that the Committee would meet as a working group of the whole to hear a briefing from the Chair of the Open-Ended Working Group on the Optional Protocol. The Committee would also meet with the Bureau of the Commission on the Status of Women to discuss the Commission's work programme and preparations for the commemoration of its fiftieth anniversary. Arrangements had also been made for the Executive Directors of the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA) and the United Nations Development Fund for Women (UNIFEM) or their representatives to address the Committee.

23. Taking into account the circumstances surrounding the fourth periodic report of the Philippines, and in order to encourage a constructive approach, the Officers had decided that the report would be received and reviewed by the Committee. The Officers had also decided to waive the rule requiring simultaneous release of an official document in all working languages of the Committee and to allow an edited English version of that report to be issued and considered by the Committee.

24. Ms. SCHÖPP-SCHILLING suggested that, in order to save time, the representatives of the States parties should be asked not to read out the questions submitted to them in advance when giving their answers.

25. Ms. GONZÁLEZ MARTÍNEZ said that she was dismayed by the Bureau's decision to waive the requirement of simultaneous distribution in all working languages for the fourth periodic report of the Philippines. That decision would make it very difficult for those members of the Committee for whom English was not a working language to participate effectively in its consideration.

26. While she understood that the visits from the Executive Directors of various United Nations agencies which had been arranged could have value, it

seemed to her that the first duty of the Committee was to hear the reports of States parties. By devoting so much time to hearing those United Nations officials, it was her opinion that the Committee was failing in its responsibility to States parties.

27. Ms. CORTI said that while the Committee's first obligation was the consideration of reports submitted by States parties under article 18 of the Convention, in practice it had been able to hear statements by the heads of agencies as well, and those statements had assisted it in its consideration of reports. Since heads of agencies had very full schedules, it was sometimes necessary to accommodate them when they were available.

28. She asked the secretariat why the last part of the Committee's comments had not been included in the introduction to the report of the pre-session working group (CEDAW/C/1997/CRP.1).

29. Ms. BUSTELO GARCÍA DEL REAL said that although the Special Rapporteur on violence against women was required to work in cooperation with the Committee, she had consulted the Committee only in the first year of her mandate. Since then, two years had gone by. The Committee should be provided with all the reports she had drawn up and then have an exchange of views, perhaps at its next session.

30. She supported the comments made by Ms. Corti about the importance of contacts with representatives of other United Nations agencies and departments, which could be pursued without detriment to the Committee's priority task.

31. The CHAIRPERSON said that she had been informed that the Special Rapporteur on violence against women would attend the Committee's next session.

32. Ms. SCHÖPP-SCHILLING said that she agreed with Ms. González Martínez that it was unfortunate that the time available to representatives of States parties had to be cut down to make time for the heads of specialized agencies, although she recognized the importance of contacts with the specialized agencies. In future, now that the Committee had three-week sessions, it should be possible to avoid having representatives of the specialized agencies speak during time allocated to representatives of States parties.

33. Ms. AOUIJ asked whether the Committee would have to tell the representatives of Slovenia to complete their replies early at the 315th meeting so as to accommodate the Executive Director of UNFPA.

34. Ms. CORTI said that the entire 314th meeting would be devoted to the introduction of the initial report of Slovenia. If the representatives of Slovenia needed additional time at the 315th meeting, they should have priority over the Executive Director of UNFPA. Responding to Ms. Schöpp-Schilling, she said that the Executive Director of UNFPA had made a great effort to find time to address the Committee before leaving New York on official business, and the Committee could hardly say that it could not receive her.

35. Ms. CONNORS (Division for the Advancement of Women) said that the only time available to the Executive Director of UNICEF was at the 315th meeting. She

would inform the Committee as to when other executive heads would be available to address the Committee.

The meeting rose at 5 p.m.